

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Graham Burney Brown,)	
)	C/A No. 4:10-1169-MBS
Plaintiff,)	
)	
vs.)	ORDER
)	
John Ozmint and Bernard McKie,)	
)	
Defendants.)	
_____)	

At the time of the underlying events, Plaintiff Graham Burney Brown was an inmate in custody of the South Carolina Department of Corrections (SCDC). Plaintiff, proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983, alleging that his constitutional rights had been violated in various respects. Plaintiff filed an amended complaint on October 15, 2010. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling.

Defendants filed a motion for summary judgment on June 14, 2011. In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), an order was issued on June 15, 2011 advising Plaintiff the summary judgment procedure and the consequences of failing to respond adequately. Plaintiff filed a response in opposition to Defendants' motion on June 27, 2011, to which Defendants filed a reply on July 5, 2011. On August 29, 2011, the Magistrate Judge issued a Report and Recommendation in which he recommended that Defendants' motion be granted and the case dismissed. On September 6, 2011, the envelope containing Plaintiff's copy of the Report and Recommendation was returned to the Office of the Clerk of Court. The court's review of the SCDC website appears to indicate that Plaintiff has been released from incarceration.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Plaintiff was instructed by order filed July 7, 2010 of his duty to keep the Clerk of Court advised in writing if his address changed for any reason. Plaintiff was informed that his case could be dismissed for failing to comply with the July 7, 2010 order. Nevertheless, Plaintiff has provided the court with no change of address. It appears that Plaintiff no longer wishes to pursue this action. Accordingly, the within action is dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

September 28, 2011

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.